

EXHIBIT B

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF OHIO
3 EASTERN DIVISION

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5 IN RE: NATIONAL : MDL NO. 2804
6 PRESCRIPTION OPIATE :
7 LITIGATION :

8 : CASE NO.
9 THIS DOCUMENT : 1:17-MD-2804
10 RELATES TO ALL CASES:

 : Hon. Dan A.
 : Polster

11 - - -

 Friday, August 3, 2018

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13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
14 CONFIDENTIALITY REVIEW

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16 Videotaped deposition of
17 CHRISTOPHER ZIMMERMAN, taken pursuant to
18 notice, was held at the law offices of
19 Reed Smith, LLP, Three Logan Square, 1717
20 Arch Street, Suite 3100, Philadelphia,
21 Pennsylvania 19103, beginning at 9:00
22 a.m., on the above date, before Amanda
23 Dee Maslynsky-Miller, a Certified
24 Realtime Reporter.

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| <p style="text-align: right;">Page 178</p> <p>1 controlled substances?</p> <p>2 MR. NICHOLAS: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: It appears</p> <p>5 that it lists the different</p> <p>6 elements under that section and</p> <p>7 states the relating Code of</p> <p>8 Federal Regulation's section and</p> <p>9 how companies may -- again, I</p> <p>10 don't know who this was to,</p> <p>11 whether it was internally, to</p> <p>12 distributors. I'm not sure who</p> <p>13 the customer was of the</p> <p>14 presentation.</p> <p>15 But it's just reiterating</p> <p>16 items that fall underneath each of</p> <p>17 the CFR sections.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Do you believe -- or do you</p> <p>20 have an understanding that</p> <p>21 AmerisourceBergen has a responsibility to</p> <p>22 comply with the CFR sections identified</p> <p>23 here?</p> <p>24 MR. NICHOLAS: Object to the</p> | <p style="text-align: right;">Page 180</p> <p>1 Q. And afterwards it says, No</p> <p>2 problem.</p> <p>3 Let's look at the first one.</p> <p>4 A. Yes.</p> <p>5 Q. Physical security controls.</p> <p>6 No problem.</p> <p>7 Do you see that?</p> <p>8 A. Yes, I see that.</p> <p>9 Q. Records and reports of</p> <p>10 registrants. No problem.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Orders for filling -- for</p> <p>14 Schedule I and II controlled substances.</p> <p>15 No problem.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Other security controls-make</p> <p>19 a good faith inquiry; report suspicious</p> <p>20 orders; report significant losses. Gray</p> <p>21 area.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Do you have an understanding</p> |
| <p style="text-align: right;">Page 179</p> <p>1 form.</p> <p>2 THE WITNESS: These are</p> <p>3 sections that we -- that fall</p> <p>4 under the distributor</p> <p>5 requirements, yes.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. And do you believe that they</p> <p>8 apply to AmerisourceBergen?</p> <p>9 A. Yes.</p> <p>10 Q. Under CFR1301.74 -- do you</p> <p>11 see that at the bottom?</p> <p>12 A. Yes.</p> <p>13 Q. It says -- for all the other</p> <p>14 ones above, it says a statement of the</p> <p>15 regulation with a short summary, and it</p> <p>16 says, No problem.</p> <p>17 Do you see that?</p> <p>18 A. I'm sorry, where?</p> <p>19 Q. If you look at each</p> <p>20 regulation, it's got a number, a bold</p> <p>21 heading, a subject of that, and then it</p> <p>22 has a brief summary of it.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> | <p style="text-align: right;">Page 181</p> <p>1 about what it means by "gray area"?</p> <p>2 A. I think what they're</p> <p>3 referring to, under these regulations,</p> <p>4 are -- say 1301.72, physical security</p> <p>5 controls, that the DEA has been very</p> <p>6 specific.</p> <p>7 So vaults need to have</p> <p>8 poured-in-place concrete, 8 inches thick,</p> <p>9 half-inch rebar, 6 inches on center. And</p> <p>10 cages have to be developed of 10-gauge</p> <p>11 steel. Openings can't be more than 2.5</p> <p>12 inch diameter across. The structure has</p> <p>13 to be built on 6-inch -- 1-inch posts</p> <p>14 with 6 inches apart. They're very</p> <p>15 specific.</p> <p>16 With regards to reports, it</p> <p>17 explains exactly how often you have to do</p> <p>18 inventories, how to annotate it. It's</p> <p>19 black-and-white.</p> <p>20 And then also with the</p> <p>21 schedule order 222 forms, it states that</p> <p>22 you can't complete a line that has any</p> <p>23 alterations. It's very black-and-white.</p> <p>24 And when it gets to</p> |

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1 reporting suspicious orders, it's very --
 2 a gray area, because it's not
 3 black-and-white. It doesn't say over
 4 five or less than four. And with
 5 significant losses, there's no
 6 definition. Is it a thousand? Is it
 7 one? Is it five? Is it 10,000?
 8 So that's, I believe, I
 9 don't want to speak for Steve Mays, but I
 10 believe that's the inference, is that DEA
 11 has been very diligent about laying out
 12 responsibilities, black-and-white,
 13 through all these requirements, and then
 14 this one area is -- they're not very
 15 specific at all. It's very open-ended.
 16 If that makes sense.
 17 Q. Let's go to the next page.
 18 It's got another CFR section
 19 here -- well, actually, the one we were
 20 just talking about, part of it.
 21 Do you see that?
 22 A. Yes.
 23 Q. It says, The registrant
 24 shall design and operate a system to

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1 disclose to the registrant suspicious
 2 orders of controlled substances. The
 3 registrant shall inform field diversion
 4 office of the administration in his area
 5 of suspicious orders when covered by the
 6 registrant.
 7 Do you see that?
 8 A. Yes.
 9 Q. Do you agree that that's a
 10 regulatory responsibility that
 11 AmerisourceBergen has?
 12 MR. NICHOLAS: Object to the
 13 form.
 14 But go ahead.
 15 THE WITNESS: Yes.
 16 BY MR. PIFKO:
 17 Q. Let's go to the next page.
 18 Are we there?
 19 A. Yes.
 20 Q. Okay. Again, it says,
 21 Regulatory responsibility. It's got
 22 three bullet points.
 23 The first one says,
 24 Reporting suspicious orders to DEA does

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1 not relieve the distributor of the
 2 responsibility to maintain effective
 3 controls to prevent diversion.
 4 Do you see that?
 5 A. Yes.
 6 Q. Do you have an understanding
 7 about what that means?
 8 MR. NICHOLAS: Object to the
 9 form.
 10 THE WITNESS: That you can't
 11 just have a system that has --
 12 that reports suspicious orders and
 13 not have -- not have effective
 14 controls in all the other areas we
 15 just mentioned. It doesn't
 16 relieve your responsibility to
 17 maintain effective controls.
 18 BY MR. PIFKO:
 19 Q. Right. So just reporting a
 20 suspicious order doesn't discharge your
 21 responsibility under The Controlled
 22 Substances Act, correct?
 23 A. For recordkeeping, all those
 24 other ones we kind of just went through.

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1 They are all grouped under the same
 2 section, effective controls to prevent
 3 diversion, 1301. All of these are in
 4 1301.
 5 So just doing one of 1301,
 6 74, doesn't relieve you of all the other
 7 items under 1301.71.
 8 Q. The next bullet point says,
 9 DEA cannot/will not tell a distributor if
 10 an order is or is not legitimate; and/or
 11 if the distributor should or should not
 12 ship an order.
 13 Do you see that?
 14 A. Yes.
 15 Q. Is that consistent with your
 16 understanding of the DEA's position?
 17 A. Yes. At the time of this
 18 presentation, yes.
 19 Q. Then it says, Distributor
 20 must make a business decision whether or
 21 not to ship the order.
 22 Do you see that?
 23 A. Yes.
 24 Q. What does that mean?